

REMARKS

Claims 7 - 12 are pending in the application. The status of the application is as follows:

Claims	35 U.S.C. Sec.	References / Notes
11	§112, Second Paragraph Indefiniteness	
7, 8, 10 and 12	§103(a) Obviousness	<ul style="list-style-type: none"> • O'Rourke (U.S. Patent No. 6,078,728); • Flashinski (U.S. Patent No. 6,154,607); and • Kennedy (U.S. Patent No. 5,695,692).
9	§103(a) Obviousness	<ul style="list-style-type: none"> • O'Rourke (U.S. Patent No. 6,078,728); • Flashinski (U.S. Patent No. 6,154,607); • Kennedy (U.S. Patent No. 5,695,692); • Schroeder (U.S. patent No. 4,725,712); and • Shibahashi (U.S. Patent No. 5,558,700).
11	§103(a) Obviousness	<ul style="list-style-type: none"> • O'Rourke (U.S. Patent No. 6,078,728); • Flashinski (U.S. Patent No. 6,154,607); • Kennedy (U.S. Patent No. 5,695,692); and • (Sprick (U.S. Patent No. 5,794,803); or • Fuchs (U.S. Patent No. 5,078,803).

Applicants have amended claims 7, 10 and 11. Applicants have further provided explanation as to why the claims, as previously presented and currently amended, are distinguished from the art cited against them.

35 U.S.C. §112, SECOND PARAGRAPH, CLAIM 9 INDEFINITENESS

1. Claims 11 and 10 have been amended to clarify that the casing is actually the base body defined in claim 7.

In the OA, on p. 2, the Examiner rejected claim 11 as being indefinite because no proper antecedent basis was given for the phrase "the casing."

Accordingly, Applicants have amended claim 11 to clarify that "the casing" is the base body defined in claim 7. Applicants have similarly amended claim 10. As Applicants have clarified by amendment that this element is has proper antecedent basis, Applicants respectfully request that the 35 U.S.C. §112 rejection be withdrawn from claim 11.

35 U.S.C. §103(a), CLAIMS 7, 8, 10 AND 12 OBVIOUSNESS OVER O'ROURKE IN VIEW OF FLASHINSKI AND KENNEDY

2. Claim 7 has been amended to require a support that is both slidable and removable to distinguish the claim over O'Rourke, even in view of Flashinski and Kennedy.

In the OA, on pp. 2-3, the Examiner indicated that O'Rourke discloses an evaporator having a base body with an integrated plug, a heating surface to provide heating to an active substance on a removable or slidable support, but without PTC heating resistance and a support with two housings adapted to two different types of containers of the active substances. Flashinski is cited to show that it is known in the art to provide an evaporator with a PTC heating element, as well as both tablet and tray forms of containment of the active substance. Kennedy is indicated to disclose support or cases with sections to accommodate varying sizes of active substances.

With regard to claim 7, Applicants agree with the Examiner that O'Rourke does not show a PTC heating resistance and a support having two housings that are adapted in size and shape to two different types of containers of the active substances. Applicants further note that O'Rourke shows a "removable or slidable support" insofar as the word "or" forms part of the sentence, as O'Rourke shows a "slidable support", but not a "removable support". In O'Rourke, column 7, lines 46-50, it is explained that "[t]his arrangement favors movement of the volatile carrier in only the intended direction." See also O'Rourke, Fig. 3. Claim 7 has been amended to require "removable and slidable support", which is not disclosed in O'Rourke.

Applicants respectfully disagree with the Examiner that it would be obvious to one ordinary skilled in the art to adapt O'Rourke with the teachings of Flashinski and Kennedy. Kennedy does not disclose "a support comprising two housings, respectively adapted in size and shape to two different types of containers of active substances, the containers being a tablet and a tray". To the contrary, Kennedy shows a disc-shaped housing ("disc-shaped cartridge 15", column 3, line 28; Figs. 1, 6, 7 and 8) with equally spaced divisions which form four pockets (column 4, lines 17-19; Fig. 1-2) for receiving separate blocks of air freshening material (column 4, lines 19-20), wherein each block may be a gel in solid form or may comprise a substrate impregnated with vapor (column 4, lines 21-24).

In summary, although Kennedy shows the possibility of using different types of active substances and allocating those substances across the housing, it

does not offer the possibility of varying the size and shape of the pockets, which is contrary to the teaching of the present invention.

If Applicants combined the teachings of these three documents, the following device would be described:

"An evaporator device for active substances, comprising:

a base body in which is integrated a plug for direct connection to an electrical power supply [O'Rourke];

a circuit comprising a PTC heating resistance connected to the integrated plug that is configured to act on a heating surface near which is placed an active substance [Flashinski];

wherein the base body further comprises a slidable support (but not removable) for the active substance [O'Rourke],

the support comprising several housings, all of these housings being of the same size and shape, adapted to allocate different types of active substances [Kennedy] (but not "adapted in size and shape to two different types of containers, the containers being a tablet and a tray");

the housings having a semi-permeable membrane [Flashinski];

so that the evaporator device can equally receive either type of active substance [Kennedy]".

This teaching of the combined references obviously differs from the disclosure of independent claim 7.

Therefore, Applicants assert that amended claim 7 is new and inventive over the prior art, and respectfully request that the Examiner withdraw this §103(a) rejection from the present application.

3. Claims 8, 10 and 12 can be distinguished from O'Rourke, in view of Flashinski and Kennedy..

Applicants respectfully assert that the combination of references do not teach or suggest the present invention. As previously discussed, O'Rourke, in view of Flashinski and Kennedy, fails to show the device claimed in claim 7, which forms the basis for claims 8, 10 and 12. As the combination of references fails to suggest the evaporator device claimed in claim 7, they also fail to suggest the indirect claims adding different features to the evaporator device of claim 7.

For these reasons, the Applicants respectfully assert that the amended claim language and the above arguments clearly distinguish over the prior art, and respectfully requests that the Examiner withdraw this §103(a) rejection from the present application.

35 U.S.C. §103(a), CLAIM 9 OBVIOUSNESS OVER O'ROURKE IN VIEW OF FLASHINSKI AND KENNEDY AS APPLIED TO CLAIMS 7, 8 10 AND 12, AND FURTHER IN VIEW OF SCHROEDER AND SHIBAHASHI.

4. Claims 8, 10 and 12 can be distinguished from O'Rourke, in view of Flashinski and Kennedy and in further view of Schroeder and Shibahashi.

In the OA, on pp. 3-4, the Examiner indicates that claim 9 is obvious over the combination of O'Rourke in view of Flashinski and Kennedy as applied to claims 7, 8, 10 and 12 above, and further in view of Schroeder and Shibahashi in

that O'Rourke, in view of Flashinski and Kennedy, is through to show the device claimed except the thermochrome paint on the body. The Examiner indicates that Schroeder shows a fluorescent screen provided on the body of the evaporator device to indicate the function of the device and Shibahashi shows that it is well known in the art that thermochromic materials provide fluorescent colors which can be used to indicate operating temperature.

Applicants respectfully assert that the combination of references do not teach or suggest the present invention. As previously discussed, O'Rourke, in view of Flashinski and Kennedy, fails to show the device claimed in claim 7, which forms the basis for claim 11. Thus, while Schroeder and Shibahashi may disclose the use of thermochromic materials to indicate operating temperature of the device upon which the thermochrome paint is located, they do not suggest that the support be both slidable and removable, or that the size and shape of pockets intended to hold the active substance be varied.

For these reasons, the Applicants respectfully assert that the amended claim language and the above arguments clearly distinguish over the prior art, and respectfully requests that the Examiner withdraw the §103(a) rejection from the present application.

35 U.S.C. §103(a), CLAIM 11 OBVIOUSNESS OVER O'ROURKE IN VIEW OF FLASHINSKI AND KENNEDY AS APPLIED TO CLAIMS 7, 8 10 AND 12, AND FURTHER IN VIEW OF SPRICK OR FUCHS.

5. Claim 11 can be distinguished from O'Rourke, in view of Flashinski and Kennedy and in further view of Sprick or Fuchs.

In the OA, on p. 4, the Examiner indicates that claim 11 is obvious over the combination of O'Rourke in view of Flashinski and Kennedy as applied to claims 7, 8, 10 and 12 above, and further in view of Sprick or Fuchs in that it would have been obvious to one of ordinary skill in the art to adapt O'Rourke, as modified by Flashinski and Kennedy, with the safety mechanism disclosed in either Sprick or Fuchs.

Spricks and Fuchs disclose child resistant containers, where there is a threaded closure and a means of locking one piece of the container to another. In both patents, the means of locking one piece to another can be overcome by deflecting or flexing a container wall to disengage the locking mechanism, allowing the parts of the container to be unscrewed using the threaded closure.

Applicants respectfully assert that the combination of references do not teach or suggest the present invention. As previously discussed, O'Rourke, in view of Flashinski and Kennedy, fails to show the device claimed in claim 7, which forms the basis for claim 11. Thus, while Sprick and Fuchs may disclose safety mechanisms that can be released upon distortion of the device, they do not suggest that the support be both slidable and removable, or that the size and shape of pockets intended to hold the active substance be varied.

For these reasons, the Applicants respectfully assert that the amended claim language and the above arguments clearly distinguish over the prior art, and respectfully requests that the Examiner withdraw this §103(a) rejection from the present application.

CONCLUSION

Inasmuch as each of the objections have been overcome by the amendments, and all of the Examiner's suggestions and requirements have been satisfied, it is respectfully requested that the present application be reconsidered, the rejections be withdrawn and that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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